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Remarks

Claims 1-26, 28-30, 32, 34-35, 38-54, and 56-78 are pending in the application. Claims 27, 31, 33, 36-37, and 55 were earlier canceled. Claims 1-2, 7, 11, 17, 39-40, 45, and 54, have been amended. Claim 78 has been added. No new matter has been added by virtue of this amendment. Reconsideration of the application as amended is requested.

Claim Rejections--35 U.S.C. § 112, first paragraph

The Examiner states that "claims 1-26, 28-30, 32, 34-35, 38-54, and 56-77 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention."

With regard to claims 1 and 39, the Examiner states that these claims have "been amended to recite an 'unscheduled' real time signal which can trigger certain actions. The term 'unscheduled' is a negative limitation which means that the signal is not generated in accordance to a pre-existing schedule. This feature is found to be new matter for the following reasons: (1) There is no discussion in the original specification of any signals being "unscheduled" or not following a schedule. (2) The mere absence of a schedule for the transmissions in the specification is not a basis for claiming 'unscheduled' in the claim. (3) Applicant does not point out where the amended feature is supported in the original specification."

Applicant agrees with the examiner that the specific term "unscheduled" is not discussed in the original specification. However, applicant would respectfully ask the Examiner to consider that the specification provides examples of real time signals that do not follow a schedule on page 3 lines 7-8, 9-10, 13-15, and 16-18; page 4, lines 9-10 page 5, lines 9-10, 12-21, and 22-25; page 6, lines 1-4 and 6-11; page 8, lines 10-12, 19-20, and 23-24; page 9, lines 1-10; page 10, lines 10-15, 18-20, and 27; page 17, lines 10-11 and 21-23; and page 18 lines 8-11, 12-14 and 23.

For example on page 3, beginning on line 16, the original specification states that "the data collection device can provide real time data triggered by an event or by a user in response to a change in information about the structure or live subject." On page 5 beginning on line 12, the original specification states that "the triggering scheme can be data collected by the accelerometers that exceeds a predetermined threshold.

On page 5 beginning on line 22, the original specification gives several specific ways of unscheduled triggering:

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triggering can also be provided by a change in other information about the structure or live subject being monitored. In addition to information sensed by the sensors themselves, a change in information otherwise observed about the structure or live subject by the analyst or by other sensors can provide the trigger. In addition to a change in information being an increase in activity or another parameter, a change in information can also be detection of no change in activity for an extended period of time, for example, indicating the death of the live subject, or indicating potential injury from inactivity or repetitive stress.

On page 6 beginning on line 6, the original specification states: "The signal may be transmitted at any time by an analyst at the control unit based on an observation of a change in some information about the structure or live subject."

Thus, applicant was in possession of the idea of real time triggering signals that do not follow a schedule, and the specification gives several examples of this idea. Therefore the rejection under 35 U.S.C. § 112, first paragraph has been traversed.

With regard to claims 40 and 50, the Examiner states that the claims have "been amended to define a 'hierarchical architecture.' This feature is new matter for the following reasons: (1) The original disclosure does not make any reference to the term 'hierarchy' or 'hierarchical.' (2) The original disclosure and drawings do not suggest hierarchical relationships between any components. (3) Applicant does not point out where the amended feature is supported in the original specification."

Applicant agrees with the examiner that the specific terms "hierarchical architecture," "hierarchy" and "hierarchical" are not discussed in the original specification. However, applicant would respectfully ask the Examiner to consider that the specification provides examples of a hierarchical architecture as indicated by some of the above cited locations in the specification where the control unit provides a signal for triggering a sensor unit—and thus provides a hierarchical architecture (please see page 3 lines 13-15; page 6, lines 10-11; page 8, lines 23-24; page 9, lines 6-10; page 10, lines 11-12; page 17, lines 10-11 and 21-23; and page 18 lines 8-11 and 12-14). Also additional description of a hierarchical architecture is provided on page 18 lines 12-20; page 19, lines 4-6; and page 21, lines 13-14.

Illustration of a hierarchical architecture is also provided in FIG. 1a, 1b in which "control unit" 50 provides power for powering and signals for controlling "remote charging & datalogging telemetry system" 20. While remote data collection system 20 includes rechargeable battery 36, extended operation requires receiving power through

power receiving coil 38a. Without externally supplied power from control unit 50 remote data collection system 20 does not long operate. The specific application for a sensor unit implanted in the leg of a human patient illustrated in FIGS. 3 and 4, and powered through large primary coil 84a wrapped around the knee of the patient also provides a hierarchical system, as described on page 14, lines 10-19.

Control unit 50 also provides personal computer 56 and RF transceiver 54, as shown in FIG. 1, for providing instruction to and receiving and storing data from remote data collection system 20, further elements of a hierarchical system.

Thus, applicant was in possession of the idea of a hierarchical system, and the specification and drawings gives examples of and illustrate this idea. Therefore the rejection under 35 U.S.C. § 112, first paragraph has been traversed.

New claim 78

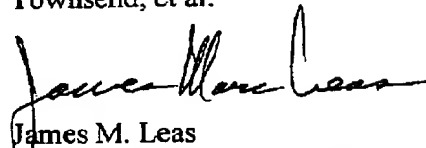
Newly added claim 78 states:

78. The apparatus as recited in claim 1, wherein said unscheduled real time signal includes at least one from the group consisting of a real time change in information that exceeds a predetermined threshold, a change in information about a structure or subject being monitored, detection of inactivity for a period of time exceeding a predetermined time, a signal from an analyst, an event sensed by said sensor, and a real time signal from said control unit to said sensing unit.

Claim 78, which depends on claim 1, includes the phrase, "said unscheduled real time signal" as provided in claim 1. The response to the Examiner's new matter rejection of this phrase given herein above regarding claim 1 also applies to newly added claim 78. The specification provides examples of real time signals that do not follow a schedule on page 3 lines 7-8, 9-10, 13-15, and 16-18; page 4, lines 9-10 page 5, lines 9-10, 12-21, and 22-25; page 6, lines 1-4 and 6-11; page 8, lines 10-12, 19-20, and 23-24; page 9, lines 1-10; page 10, lines 10-15, 18-20, and 27; page 17, lines 10-11 and 21-23; and page 18 lines 8-11, 12-14 and 23. Thus, applicant was in possession of the idea of an unscheduled real time signal.

Consideration of the application as amended is requested. Applicant respectfully requests favorable reconsideration. If there are any questions please call applicant's attorney at 802 864-1575.

Respectfully submitted,
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